

रजिस्टर्ड नं० गी०/एम० एम० 14।



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यपालन द्वारा प्रकाशित

शिमला, मंगलवार, 11 फरवरी, 1986/22 माघ, 1907

हिमाचल प्रदेश सरकार

ELECTION DEPARTMENT

NOTIFICATION

Shimla-171002, the 24th January, 1986

No. 3-26/86-Elm.—The Election Commission of India's Notification No. 82/HP-LA/3/85, dated the 24th December, 1985, corresponding to pausa-3 of 1907 (Saka), containing the Judgement dated the 15th November, 1985 of the High Court of Himachal Pradesh at Shimla in Election Petition No. 3 of 1985 is here by published for general information.

By order,
ATTAR SINGH,
Chief Electoral Officer.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashoka Road,
New Delhi-110001,
24th December, 1985

Dated the

Pausa 3, 1907 (Saka)

NOTIFICATION

No. 82/HP-LA/3/85.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgement dated 15th November, 1985 of the High Court of Himachal Pradesh, Shimla in Election Petition No. 3 of 1985.

भारत निर्वाचन आयोग

निर्वाचन सदन,
अशोक मार्ग,
नई दिल्ली-110001।

14 फरवरी, 1985

तारीख—

22 अश्विन, 1907 (शक)

अभिज्ञता

सं० 82/हि० प्र०/3/85.—लोक प्रतिनिधित्व अधिनियम 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1985 की निर्वाचन प्रती सं० 3 में उच्च न्यायालय, हिमाचल प्रदेश, शिमला के तारीख 27 सितम्बर, 1985 का निर्णय एतद्वारा प्रकाशित करता है।

T. R. HANDA, J., (Oral):

During the last general elections to the Himachal Pradesh State Legislative Assembly held in February/March, 1985, the petitioner Shri Des Raj and the respondent Shri Girdhari Lal were the two rival candidates to contest the seat from 35-Gangath (SC) Constituency. The respondent secured 10,711 votes as against 9,074 secured by the petitioner and was, therefore, declared elected. The petitioner who, it appears could not reconcile with his defeat, has filed the present election petition under sections 80 and 81 of the Representation of People Act, 1951, (hereinafter called "the Act") to call in question the validity of the election of the respondent.

The petitioner has challenged the election of respondent on the ground that the respondent committed various corrupt practices at the election. The details of the corrupt practices alleged to have been committed by the respondent are found in para No. 4 of the petition. A substance of such corrupt practices alleged to have been committed by the respondent may be stated thus:

- (i) the respondent on 4th March, 1985, a day before the date of poll, visited the residence of Ashok Kumar owner of truck No. HYA 9255 at Pathankot and hired from him the above mentioned truck for carriage of voters on the day of poll. The said truck then actually was plied in the Constituency of the respondent for carriage of voters to and from the Polling Station.
- (ii) the respondent exercised undue influence on the voters pertaining to Polling Station Kandauri inasmuch as on the day of poll he directly interfered with the free exercise of franchise by a number of voters and with the help of 20 or 25 toughs who were his supporters and agents, captured the Polling Station Kandauri and did not permit his opponents to exercise their franchise.
- (iii) one Daljit Singh a known terrorist of the area at the instance of the respondent visited Polling Station at Parol on the day of poll and threatened the voters present there if

they cared to exercise their franchise in favour of the petitioner and against the respondent. As a result of the threats extended by this Daljit Singh, a large number of voters of the petitioner could not poll their votes while a good number of them had to change their mind under threat of the said Daljit Singh.

- (iv) the respondent incurred an expenditure in contravention of section 77 of the Act and submitted a false return of expenditure. The expenditure actually incurred by the respondent exceeds rupees one lac as per details given in paras 4(d) and (e) of the petition.
- (v) the respondent committed the corrupt practice of bribery inasmuch as on 1st March, 1985, he held an election meeting in village Ghawgan where a bargain was settled between him and the voters of that village in terms of which the respondent was to get a primary school opened in that village by exercising his influence and in return the voters were to vote for him. Pursuant to this bargain, the respondent actually got the School opened in the village on 3rd March, 1985, without any proper order of the Government.

The respondent in his reply repudiated all the allegations of corrupt practices as made in the petition.

On the plea of the parties the following issues were struck:—

1. whether the respondent hired truck No. HYA 9255 and used the same for the free conveyance of the voters of village Dangu Pir, Chhani and Badroh from their places to the polling stations on the day of poll;
2. whether the respondent with the help of his supporters forcibly pushed out and obstructed the voters named in para No. 4(b) of the petition from casting their votes at Kandaur Polling Station?
3. whether at the instance of the respondents his supporter Daljit Singh threatened the voters at Polling Station Parol and interfered with free exercise of their electoral rights.
4. whether the respondent incurred expenditure in contravention of section 77 of the Act and submitted a false return of such expenditure as alleged in paras 4(d) and (e) of the petition?
5. whether the respondent committed corrupt practice of bribery as alleged in para 4(g) of the petition?

Issue No. 1:

I would like to point out at the very outset that the allegations in respect of corrupt practice/ forming subject matter of this issue find mention in para No. 4(a) of the petition. The correctness of this sub-para has been verified by the petitioner from his own personal knowledge suggesting thereby that it was within his own knowledge that the respondent had approached Ashok Kumar to hire truck No. HYA 9255 and that the said truck had actually plied in the constituency on 5th March, 1985. While in the witness box, however, the petitioner did not care to utter a single word in this regard. Ashok Kumar, the owner of the truck, and from whom the respondent is alleged to have taken the truck on hire has also not been examined. The total omission on the part of the petitioner to depose on this issue and the non-production of Ashok Kumar, the alleged owner of the truck, are the factors which by themselves would justify return of a finding on this issue against the petitioner. Otherwise also on a consideration of the evidence adduced in the case as a whole, I have no hesitation in coming to the conclusion that the allegations made against the respondent are totally unfounded and false. Judicial notice can be taken of the fact that innumerable persons were in a position to see the plying of the truck in the area of the constituency. If any truck had actually plied. Judicial notice can also be taken of the fact that several workers of the petitioner who admittedly belongs to the Bhartiya Janta party must have been present in that area and were in a position to see the plying of the truck. The petitioner, however, could not produce any one of such witnesses. The only witnesses who were deposed on this issue are PW.2, Ram Parkash and PW.5, Varinder Kumar. PW. 2, Ram Parkash claims to be the driver of truck No. HYA 9255. According to him, on 5th March, 1985, he was deputed to transport voters from Dhagpur to Dhandor and that he reached for on his duties at about 7.00 a.m. at Kandauri. He however, never stated at whose instance he plied that truck or if that truck was hired any person

for that purpose. In his cross-examination, he admitted that a log Book was maintained with the truck. No entry was, however, made in the log book pertaining to 5th March, 1985, the day of poll. towards the end of his cross-examination, the witness stated that he had not talked to the petitioner about his having transported voters on the day of poll on any earlier occasion and that it was for the first time in Court that he was deposing about that. How this witness was summoned by the petitioner is a mystery which remains to be solved. The other relevant witness is PW. 5, Varinder Kumar, who claims to have taken a lift in the truck for going to the polling station to poll his vote on the day of poll. He could not give the registration number of the truck nor could he give the name of any other person who was carried in that truck along with him though he claims that 20 or 25 persons from his village accompanied him.

In This connection it may be observed that PW. 3, Narinder Singh and PW. 4. Prem Mitter had both acted as polling agents of the petitioner at polling station Kandauri. They both admit that they were present outside the polling station at about 11.00 a.m. on the day of poll. Neither of them, however, claims if he had seen any truck plying in that area on that day. PW-6, Shri Charan Singh is another witness examined on behalf of the petitioner. He also belongs to the same Constituency. He states that on 5th March, 1985, the votes were polled in favour of the respondent but he too never cared to state if he saw any truck plying in that area on that day for carriage of voters. In the circumstances as discussed above, it looks not only difficult but impossible to believe the allegations as found in the petition which, as earlier stated, have not been supported either by the petitioner himself or his polling agents Narinder Singh and Prem Mitter.

The respondent on the other had appeared in the witness box as his own witness to deny on oath if he hired any truck for carriage of voters on the day of poll or if any truck actually plied for that purpose on that day. RW. 2, Mela Ram, RW. 3, Baldev Singh, RW. 4, Joginder Singh and RW. 5, Oin Prakash are the other witnesses examined on behalf of the respondent who pledged their oath to the fact that no vehicle was plied for carriage of voters on the day of poll. In fact the rebuttal evidence adduced on behalf of the respondent, the conclusion is all the more justified that no truck, much less any truck hired by the respondent was plied for carriage of voters in the Constituency in question on the day of poll. This issue is accordingly decided against the petitioner.

Issue No. 2:

The voters named in para No. 4(b) of the petition who, according to the petitioner, were forcibly pushed out and obstructed from voting are S/Shri Rattan Chand and Hardev Singh. The further allegations in the petition are that the respondent threatened Narinder Singh (PW 3), the polling agent of the petitioner when this polling agent protested against the forcible capture of the polling station by the respondent and his agents and that he was also beaten. Narinder Singh (PW. 3) the polling agent of the petitioner, however, refused point blank to support such a version. All that this witness stated is that he was present at the gate of the Polling Station at about 11.00 a.m. when S/Shri Rattan Chand, Hardev Singh and Ramesh voters came to cast their votes at that polling station. The respondent, Girdhari Lal, who was then standing at a distance of at about 2 feet from the witness told the above named three persons to cast their votes properly. Even if this version is accepted at its face value, this would not amount to exercise of undue influence or the Commission of any corrupt practice on the part of the respondent. The other witness on this point is Prem Mitter (PW.4) who was also a polling agent of the petitioner. This witness, however, admitted that he was at a distance of about 20 or 25 yards from the respondent when the latter talked to Rattan Chand, Hardev Singh and Ramesh voters and Narinder Singh (PW. 3) was standing at a distance of 2 to 4 feet from the respondent at that time. Narinder Singh (PW.3) was thus, according to this PW, in a better position to narrate about the occurrence. Any way all that Prem Mitter (PW.4) stated is that the respondent and his two sons and other party workers had told Rattan Chand, Ramesh and Hardev to vote for Congress (I) and thereafter all the three voters proceeded to cast their votes at the polling booth. The version of this witness is thus also against the case of the petitioner as set up in the petition. In other words, the version as given in the petition finds no support from the evidence adduced at the trial. This issue is also, therefore, decided against the petitioner.

Issues No. 3 and 4:

Not an iota of evidence has been adduced on either of these two issues which are, therefore, decided against the petitioner.

Issue No. 5:

The corrupt practice of bribery forming subject matter of this issue is also not supported by any evidence. The only reference with respect to this corrupt practice is found in the evidence of Shri Charan Singh (PW.6). All that this witness stated was that on 1st March, 1985, an election meeting was held by the respondent in village Ghagwan where the electors present made a demand for opening of a School in that village and further told the respondent that they would vote for him only if the school was opened. There is no further suggestion by this witness if the respondent made any response to that demand. In fact the witness never stated if the respondent uttered a word in that meeting. The mere fact that a demand was made to the respondent for the opening of the school in the village would not amount to the commission of any corrupt practice on the part of the respondent. This issue is, therefore, also decided against the petitioner for want of evidence.

As a result of my above findings, I dismiss this election petition with costs which are assessed at Rs. 1,000.

The Registrar of this Court shall forthwith intimate the substance of this judgement to the Election Commission of India, New Delhi, as also the Speaker of the Legislative Assembly of the State of Himachal Pradesh. An authenticated copy of this judgement may be sent to the Election Commission of India, New Delhi as soon as possible.

November 15, 1985.

(Is)

T. R. HANDA,
Judge.

Attested
Sd/-
Supdt. (J),
H. P. High Court.
Shimla.

By order,
T. D. GUPTA,
Under Secretary,
Election Commission of India.

Seal.

HIMACHAL PRADESH STATE LOTTERIES HIMALAYAN WEEKLY

Result of 280th Draw held at Shimla on 3-2-1986

First Prize: (1) Rs. 1,00,000.00

HY-323483

Second Prize: (3) Rs. 20,000.00 each (One prize in each series):

HX

HY

HZ

561447

677926

422338

Third Prize: (180) Rs. 500.00 each

(All the ticket numbers ending with the last five digits in all series):

20751

91798

52500

65567

40882

35757

09864

68692

88773

15725

Fourth Prize: (1800) Rs. 50 each

(All the ticket numbers ending with the last four digits in all series):

4403

8878

6925

0473

9630

0741

0755

5170

4347

7425

Fifth Prize : (1800) Rs. 20.00 each		(All the ticket numbers ending with the last four digits in all series):		
0376	8832	4670	5479	1590
8354	5626	0646	7624	7409

Sixth Prize : (18000) Rs. 10.00 each		(All the ticket numbers ending with the last three digits in all series):		
001	162	238	354	489
533	644	799	898	950

Seventh Prize : (72000) Rs. 5.00 each		(All the ticket numbers ending with the last three digits in all series):		
038	171	211	333	443
099	127	275	344	448
035	170	205	335	406
021	124	221	350	481
			520	517
			552	652
			630	748
			779	791
			832	815
			872	885
			929	972
			999	946

Seller's Bonus against production of counterfoils : Total No. of Seller's prizes: 21,784.

- (i) On prizes of Rs. 20,000.00 to Rs. 1,00,000.00 .. 3% of the prize money.
- (ii) On prizes of Rs. 500/- .. Rs. 50/- each.
- (iii) On prizes of Rs. 20/- to Rs. 50/- .. Rs. 10/- each.
- (iv) On prizes of Rs. 10/- .. Rs. 5/- each.

Note.—The Directorate of State Lotteries will not be responsible for any mistake in printing. All ticket holders are advised to check the numbers finally in the State Gazette. For preferring claims of prizes, please follow instructions on the reverse of the lottery tickets.

HIMALAYAN WEEKLY DRAW ON EVERY MONDAY

NEXT DRAW ON 10-2-1986

First Prize : (1) Rs. 1,00,000.00

Second Prize : (3) Rs. 20,000.00 each

AND LAKHS OF OTHER ATTRACTIVE CASH PRIZES

Total Prize money	Ticket	Total No. of prizes
s. 11,08,600.00 (including all incentives)	Re. 1/-	93,784

For terms and conditions of Lottery Agency, please contact our Sole Selling Agent:

M/s Nirmal Agency,
No. 98, Avvai Shanmugam Salai,
(Lloyds Road), Royapettah,
Madras-600 014.

Sd/-
Director,
H. P. State Lotteries.

Shimla-2:
The 3.d/4th February, 1986.

रजिस्टर्ड नं० पी०/एस०एम० 14.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुकवार, 14 फरवरी, 1986/25 माघ, 1907

हिमाचल प्रदेश सरकार

श्रम तथा रोजगार विभाग

अधिसूचना

शिमला-171002, 5 फरवरी, 1986

संख्या एल० ई० पी० (एल० ए० पी०) 3 (1) (ए) 11/77-II.--न्यूनतम वेतन प्रविधिक्रम, 1948 की धारा 7 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए हिमाचल प्रदेश के राज्यशासन अनुसूचित व्यवसायों में